

South Dakota Board of Chiropractic Examiners

Policies and Opinions

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**UPDATES VIEWABLE VIA THE WEB!!
www.state.sd.us/doh/chiropractic**

FOREWARD

The South Dakota Board of Chiropractic Examiners sincerely hopes this information is useful to you – chiropractic physicians, patients, and others interested in the chiropractic profession in our state.

This Policy and Opinion booklet is the result of a concerted effort to review the Board's responses to numerous questions over a number of years. As such, this is an ever-evolving document.

Please remember that the legal levels that govern the board are as follows: level one - statutes found in Chapter 36-5 of South Dakota Codified Law; level two - Rules and Regulations found in Article 20:41; level three - board policy and level four - opinions written by one member of the board addressing a specific issue.

The Board is well aware that many of these issues will need to be revisited. You are part of that process. You are always welcome to write and request the Board to consider new information or a different point of view. All policies and opinions will be reviewed and updated annually. You may contact the Board office by writing to: South Dakota Board of Chiropractic Examiners, Attn: Marcia Walter, Executive Director, 2603 Ella Lane, Yankton, SD 57078 by email at sdbce@iw.net or faxing to 605-668-9017. Our phone number is also 605-668-9017.

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ABBREVIATIONS AFTER NAME

ARSD 20:41:09:05 prohibits a licensee from listing extraneous abbreviations after his/her name. The key within the administrative rule is the language that any proposed listings “must be approved by the Board in advance.” There needs to be some reasonable basis for either accepting or rejecting such listings and the reasoning should be briefly explained to the licensee.

ACCREDITATION

It is the policy of the South Dakota Board of Chiropractic Examiners that any requests for continuing education courses or licensure from any college that does not have accreditation be denied.

ACUPUNCTURE

Beginning July 1, 2003, anyone wishing to be certified for acupuncture must pass the acupuncture test administered by the National Board of Chiropractic Examiners. In order to take the examination, an applicant must have successfully completed prior to the application late cutoff date, 100 hours of instruction in acupuncture. The acupuncture instruction must be taken at and/or recognized by one of the 22 chiropractic colleges whose students are currently eligible to take the NBCE examination. Upon receipt the NBCE issued Acupuncture Certificate of Attainment, the chiropractor will be certified to perform acupuncture in the State of South Dakota. A copy of the NBCE certification does need to be on file in the SDBCE office before local certification will be issued. Any chiropractor certified to perform acupuncture prior to July 1, 2003 is grand fathered in and does not need to retake the acupuncture exam. Chiropractors that are certified to practice acupuncture in another state may receive acupuncture endorsement subject to board approval.

ACUPUNCTURE TREATMENT TO ANIMALS

Such treatment would constitute the practice of veterinary medicine, and such practice without a license and registration certificate would constitute a Class 2 misdemeanor. (refer to SDCL 36-12-1 and 36-12-27).

AGENDA PLACEMENT GUIDELINES

1. General Item

A brief synopsis must accompany requests explaining reasons for items to be placed on agenda. This is to be sent to executive secretary of SDBCE at least 7 working days prior to the scheduled board meeting. The executive secretary will in turn contact the President of the Board for approval and placement on the agenda. This will allow time for information to be sent to board members if needed.

2. Request for Policy/Opinion

If a request is being made for a Board Policy /Opinion, this is to be sent to the SDBCE executive secretary 10 working days prior to the scheduled board meeting who will in turn contact the President of the Board for approval and placement on the agenda. To assist the Board in the request, as much of the following material should accompany the request for board policy/opinion:

- A) Outline of presentation and who will be making presentation
- B) Adequate and qualified scientific research
- C) All scientific research and claims provided by vendor must be noted
- D) Provide opinion and acceptance by related governing bodies
- E) “Investigative” usage should be noted
- F) Standards of training requirements if applicable
- G) Justification as to necessity and patient benefit
- H) Standards and protocol for utilization

I) Patient and consumer cost (if any) and data need to set fee

The Board has the right to request additional information and may delay a decision until all aspects of research and utilization are studied.

ALLERGY TESTING

It is within the scope of a practicing chiropractic physician within the state of South Dakota to perform allergy tests. Specifically in our law it states a chiropractic physician can perform diagnostic procedures necessary to render a proper diagnosis of his patient and he can utilize diagnostic procedures that were taught in a CCE (Council of Continuing Education) approved chiropractic institution.

BIRTHDAY CARDS

Chiropractors in the state of South Dakota are not allowed to send birthday cards offering free and/or discounted services to their existing patients. This type of solicitation is the same as advertising for free services which is prohibited under ARSD 20:41:09:07.01.

BLIND ADS

All advertising must identify the sponsor for that advertisement. Blind ads or ads which don't identify sponsors may be construed as being a violation of the distributed material rule 20:41:09:06 and 20:41:09:07.01 misleading, deceptive statements.

BOARD ACCEPTED ORGANIZATION SEMINARS

1. All educational sessions presented by board accepted organizations must be professional in content.
2. All education sessions must be conducted in a professional atmosphere.
3. No alcoholic beverages will be allowed in the room during the sessions.
4. The doctor presenting the educational material is to send to the Executive Director of the Board of Examiners, a synopsis of what he plans to present at least six weeks before the program date.
5. There will be no more than one fifteen-minute discussion period in a two-hour block of educational material.
6. The board accepted organization is required to send to the Board Executive Director a list of doctors in attendance and hours accumulated at the session within one week following the session.
7. All standard guidelines for approval of continuing education credit will also be used in approving seminars presented by board accepted organizations. Board approval for continuing education hours will be given on an individual basis.
8. If complaints are received by the Board as to violation of any of these above stated rules, permission will be immediately suspended for credit.

BOOKKEEPING DISCOUNTS

Same day bookkeeping discounts may be offered if the discount does not exceed 15% of total cost. If a patient paid this bookkeeping discount and still wanted insurance submitted, the amount submitted to the insurance company would reflect this discount.

CHARITABLE ORGANIZATION PROMOTION

Chiropractors are allowed to participate in and advertise about events such as patient appreciation days with proceeds and/or donated items being given to some charitable organization. This is permissible as long as all patients seen on this day – PI, medical, workers comp, etc. – are treated the same way.

CONTRACTED CARE FEE SCHEDULES

The board is of the opinion that contracted care with different agencies is not unethical. As long as the doctor is not charging multiple fee schedules to help the patient avoid or reduce the patient's co-pay responsibility, it is not illegal.

COPY COSTS

The Board of Examiners has approved a policy to accept the worker's compensation guideline 47:03:05:09 as usual and customary for reimbursement of photocopies for all cases. Therefore, the maximum reimbursement for copies of provider records is ten dollars for the first ten pages and thirty-three cents for each additional page. SDCL 36-2-16 should also be reviewed for information regarding the release of medical records to the patient or designee on request.

COX DISTRACTION TECHNIQUE

It is the Board's opinion that it is acceptable to bill motorized cox distraction technique as CPT code 97012 unattended therapy.

CROFT GUIDELINES

The following policy statement is issued regarding the Croft Guidelines: *The Textbook of Whiplash Injuries, The Cervical Acceleration/Deceleration Syndrome* by Steven M. Forman and Arthur C. Croft as well as the *Croft Guidelines* are an approved reference material for the treatment of acceleration/deceleration (whiplash) injuries by the South Dakota Board of Chiropractic Examiners, but as in all services rendered by a chiropractic physician within the State of South Dakota the documentation must justify the necessity of the procedures performed as well as the frequency and duration of care.

DIAGNOSTIC PROCEDURES

Chiropractors in the state of South Dakota can perform all non-invasive diagnostic procedures that were taught in a CCE accredited institution. Records must show the need for the procedure, have documented notes to support the need and the result of the procedure, and document the interpretation of these results.

DIAGNOSTIC ULTRASOUND

The Chiropractic Board of Examiners is of the opinion that diagnostic ultrasound be considered "investigational" at this time.

DISCOUNTED SERVICES

Chiropractors in the state of South Dakota are not allowed to **offer discounted** services through coupon advertising and yellow page ads. This is in violation of ARSD 20:41:09:07.01 and the board will continue to prohibit advertising of this nature. Also, chiropractors in the state of South Dakota are not allowed to **offer discounted services** through direct mail and/or through newsletters for their existing patients only. The board will continue to enforce the policy that discounted services cannot be offered through direct mail and/or through newsletters for existing patients as this is in violation of ARSD 21:41:09:06 and ARSD 21:41:09:07.01.

DOCTOR/PATIENT RELATIONSHIPS

The Chiropractic Board of Examiners is of the opinion that if a chiropractor is dating patient, he/she should terminate doctor relationship and refer to another practitioner.

ETHICS AND FRAUD

During the 2006-2007 education cycle, all licensed chiropractors in the state of South Dakota are required to complete two hours of ethics and fraud education in order to maintain licensure. This can be obtained on-line if the course has received prior approval from the Board of Examiners.

ETHYL CHLORIDE AND FLUORI-METHANE SPRAYS

The use of these sprays falls within the scope of practice for doctors of chiropractic practicing within the state of South Dakota as long as the doctor documents the medical necessity for their use in the treatment for myofascial disorders, muscle spasms, muscle **swelling and restricted motion due to muscular involvement**. **It is imperative that the doctor be knowledgeable about the contra-indications and the proper use of the topicals as well as the TENS unit. If this is all spelled out well in documentation and we find the doctor is knowledgeable and did a good job educating his patient then these can be utilized and even be reimbursable by insurance companies.**

EXPERIMENTAL/INVESTIGATIONAL DEVICES

It is the position of the South Dakota Board of Chiropractic Examiners that any licensed chiropractor using a device, whether it is used for treatment or diagnostic purposes must have a patient sign a release which states that this particular device or procedure may be considered experimental or investigational. It must also include a statement explaining the procedure, may or may not, whole or in part, be covered by a third-party payor. In addition, it must clearly state the total cost and to what degree the patient is responsible for the payment of any unpaid portion of this procedure. A copy of a sample release is available through the board office.

FAMILY MEMBERS – TREATING

The South Dakota Board of Chiropractic Examiners has written an opinion on the issue of treating family members previously, however, to further clarify our position, we have adopted the following policy as of September 21, 2000.

“It is ethical and reimbursable to bill for **appropriate diagnostic evaluations** for *all family members*. It is also ethical and reimbursable to bill for **appropriate durable medical equipment** for *all family members*. It is ethical to **treat family members**, however, it is **not ethical to solicit reimbursement** for treatment of *immediate family members* unless requested by the insurance carrier. Immediate family members shall be defined as grandfather/father/husband/son or daughter, grandmother/mother/wife/son or daughter and members of the same household regardless whether or not they are blood relatives.”

Effective January 17, 2001, the South Dakota Board of Chiropractic Examiners has further modified the existing family treatment policy to include the following:

Any doctor or practitioner treating a family member of any other doctor or practitioner in the same clinic would mandate an automatic peer review of said services pursuant to SDCL 58-17-54 which provides “this section does not require reimbursement for any method or service not necessary, not reasonable, not generally accepted by the peers of the particular licensed health provider.”

FEE SPLITTING

The Board of Examiners reiterates that ARSD 20:41:09:10 says “no division of fees for services is allowed, except with another chiropractor or a person licensed under chapter 36 and then based only upon the division of service or responsibility.”

FOOT ORTHOTICS

It is the opinion of the SD Board of Chiropractic Examiners that it is within the scope of practice of Chiropractic Physicians to prescribe and perform the procedure involved with customized, prescription foot orthotics.

FRACTURES

In the state of South Dakota it is the Board's opinion that a chiropractic physician can treat simple, uncomplicated fractures and this is supported by the South Dakota Codified Law 36-5-1 and Administrative Rules 20:41:01:01. The treatment of fractures is taught in an approved chiropractic institution and, therefore, is within the scope of practice of a chiropractic physician in South Dakota.

FREE ADVERTISING

Chiropractors in the state of South Dakota are not allowed to **advertise free** examinations, x-rays, and services. The board's policy remains as written in ARSD 20:41:09:07.01 (6) that this type of advertising will not be allowed.

FREE CONSULTATION

The Chiropractic Board of Examiners has written a policy that it is acceptable to advertise "Free Consultation" as long as the ad also indicates that this offer does not include an exam or x-ray. A consultation is considered sitting down with a patient and listening to their concerns/problem and then making a recommendation whether or not chiropractic treatment is a feasible option or not.

HOMEOPATHY

The South Dakota Board of Chiropractic Examiners considers Homeopathy to be an adjunct to Chiropractic and is within the scope of chiropractic practice. Homeopathy may be practiced by a licensed chiropractor in the State of South Dakota within the following guidelines:

1. Homeopathy and the specialized instrumentations utilized in diagnosis and treatment are at this time classified as experimental in nature. Doctors of Chiropractic must follow the guidelines of Research and Experimental Procedures set forth under the Board Policy Classification of Chiropractic Procedures and Instrumentation.
2. Doctors of Chiropractic wishing to utilize Homeopathy in their chiropractic practice must notify the Board of Examiners and have approval before doing this experimental procedure.
3. Doctors of Chiropractic must demonstrate to the Board of Examiners that they have received adequate training in instruction of the practice of Homeopathy.
4. Beginning January 1, 1991 Doctors of Chiropractic utilizing Homeopathy must have completed a minimum of 100 hours of specialized training in Homeopathy at a CCE approved Chiropractic College or from a college or program with equivalent standards. Within a 3-year period, you must demonstrate to the Board of Examiners an additional 100 hours of continued education, for a total of 200 hours of specialized education in Homeopathy.

IME CHIROPRACTIC PHYSICIANS

There are no requirements to become an IME doctor within the state of South Dakota for any practitioner including D.O., M.D., or D.C. However, in order to recommend IME doctors for the chiropractic profession in the state of South Dakota, the board is of the opinion that these doctors must fulfill certain qualifications:

1. They have all practiced within the state of South Dakota for five years as a licensed chiropractic practitioner and is in good standing with the Board of Examiners and South Dakota Chiropractic Peer Review and have acted as reviewing doctors for a minimum of three years.

2. They are either certified in orthopedic, rehabilitation, sports injury, neurology or family practice and/or certified in the most recent AMA impairment rating certification courses.
3. They have demonstrated superior clinical competency including proper diagnostic procedures as well as proper documentation procedures.
4. These doctors must perform an independent chiropractic/medical examination without bias.

INCORPORATING

South Dakota incorporation statutes require that a "professional" corporation (P.C.) or a "professional" limited liability company (L.L.C), or "professional" limited liability partnership (L.L.P.) AS IT PERTAINS TO PROFESSIONALS, MUST HAVE the appropriate designation, e.g. P.C., after the name of the professional entity. Examples such as Dakota Chiropractic Clinics, P.C. - Carr Chiropractic Clinic, P.C., - Heidepriem, Widmayer & Zell, P.C. represent such requirement. Thus, if you are creating any one of the above entities as a professional, you must show that designation after the name of the entity. The D.C., would not have to be a part of the designation, but could be, e.g. "John Doe, D.C., P.C. The board would recommend that the D.C. use the "D.C." professional abbreviation if he was using only his name as the corporate name. It would assist the public in understanding who they were dealing with... John Doe, P.C. vs. John Doe, D.C., P.C. The D.C. probably should reflect the actual corporate name on letterhead and in advertising as well.

LABORATORY TESTS

It is within the scope of a practicing chiropractic physician within the state of South Dakota to perform laboratory tests. Specifically in our law it states a chiropractic physician can perform diagnostic procedures necessary to render a proper diagnosis of his patient and he can utilize diagnostic procedures that were taught in a CCE (Council of Continuing Education) approved chiropractic institution.

LATE FEES

Effective October 1, 2001, any license renewal fee not received in the executive secretary's office on or before December 31 of the current year, will be considered delinquent. A \$100 late fee will be assessed along with the normal renewal fee to be paid by January 15th. Further board action may be taken after January 15th if renewal fees and late fees are not paid.

Also, there will be a \$100 late fee for those doctors that have not met their continuing education requirements at the end of the 2-year period. Doctors will then have an additional 30 days to complete their continuing educational requirements. If these requirements are not met by January 30th, further board action may be pending.

LICENSE RENEWAL FEES

It is the opinion of the Board of Examiners that license renewal fees may not be refunded or pro-rated regardless of hardship, decision not to practice, etc.

LIVE CELL ANALYSIS

The Board of Examiners considers Live Cell Analysis to be experimental and not approved by the Board. Patients should clearly be instructed that this is an experimental procedure.

LOW LEVEL LASER THERAPY

The use of an FDA approved low-level laser therapy to be billed as an attending physiotherapeutic modality in the state of South Dakota is acceptable.

MANDATORY HOURS

The SDBCE may mandate specific hours of education if they feel there is a need for such. SDCL 36-5-14.2 states “The board of examiners may provide, by rule, additional requirements of an annual license.” SDCL 36-5-15.2 which empowers the board to (3) establish, by rule, training and competency standards governing....the practice of practitioners under this chapter...” (5)....renew licenses of those who continue to meet the licensure standards of this chapter and the board’s rules.

MANIPULATION UNDER ANESTHESIA

The following opinion is to advise chiropractic physicians when they may perform manipulation under anesthesia.

- 1) The South Dakota State Board of Chiropractic Examiners places the following restrictions on chiropractic physicians who engage in the practice of chiropractic while the consumer of the chiropractic service is under anesthesia.
- 2) A chiropractic physician may not engage in the practice of chiropractic while the consumer of the chiropractic service is under anesthesia, unless:
 - a. The manipulation under anesthesia (MUA) is performed at a facility that is licensed by the South Dakota Department of Health—Bureau of Hospital Licensing and Certification and approved by one (1) of the following:
 - i. Joint Commission on Accreditation of Healthcare Organizations (JCAHO)
 - ii. American Osteopathic Association (AOA)
 - iii. Accreditation Association of Ambulatory Health Care (AAAHC) or Medicare; and
 - b. The anesthetic, sedative, or other drug is administered to the consumer by a licensed medical doctor or doctor of osteopathy who is a board-eligible or board-certified anesthesiologist or under the direct supervision of that professional; and
 - c. The chiropractic physician has completed a certification course in MUA of not less than twenty-four (24) didactic academic hours and completed six (6) proctored MUA procedure as part of the certification course. The MUA certification course must be sponsored by a chiropractic college accredited by the Council of Chiropractic Education (CCE); and
 - d. The chiropractic physician follows the appropriate protocol as adopted by rule by the South Dakota State Board of Chiropractic Examiners; and
 - e. The consumer of chiropractic service MUA has been evaluated by a medical doctor or doctor of osteopathy, who is familiar with MUA, prior to the MUA procedure who approves the procedure and the administration of the anesthesia.
- 3) A chiropractic physician who violates this opinion is guilty of unprofessional conduct in the practice of chiropractic.
- 4) Nothing in this opinion shall be construed as to require a facility licensed by the South Dakota Department of Health – Bureau of Hospital Licensing and Certification or approved by the JCAHO, AOA, or AAAHC to grant allied hospital privileges to a chiropractic physician.

MEDICAL RECORDS RETENTION

The Board of Examiners is of the opinion that all chiropractic medical records including x-rays shall be retained or maintained in accordance to federal and state statutes and regulations and in any event for a period of at least 7 years.

MRI's

It is within the chiropractic scope of practice for a chiropractor to request an MRI when used for diagnostic study. This is also part of the rules and regulations as written in Article 20:41:01:01 – (1) “Scope of Practice” diagnostic procedures and chiropractic therapeutics as taught in approved chiropractic schools, as defined by Article 20:41:04:01, but within the limitations and privileges of SDCL 36-5-1 and 36-5-15; etc.

NATUROPATHY

Naturopathy is not a licensed healing art in the State of South Dakota.

NUTRITION / FOOD ALLERGIES

In research of this issue, the Board found that the National College of Chiropractic collected data from 125 Allopathic colleges in the Association of American Medical Colleges 1996-1997 Curriculum Directory and compared that to data collected from the National College of Chiropractic 1996-1997 Bulletin. The data confirmed that only 29 of the 125 medical colleges even offered a separate course in nutrition. The other schools included some nutritional information in other courses. The average number of hours in nutrition of the 125 medical schools surveyed was 24 hours. In contrast, each student at the National College of Chiropractic received 122 hours in nutrition. This would be typical for most chiropractic colleges. Based upon this information it is our opinion that chiropractors not only have the educational background to make determinations with respect to nutrition and food allergies, they have a much more thorough education in this subject than their medical colleagues.

NUTRITIONAL SUPPLEMENTS

According to the Mercy Guidelines, nutritional counseling has a rating that is classified as established, evidence of class I, II, III and a consensus level of I. It is the boards opinion that with this procedure rating it is appropriate and within the scope of practice for a doctor of chiropractic to utilize nutritional supplements in their practice. The specific type and dosage of the therapy should be left to the individual doctors clinical judgment. Whether or not the insurance companies determine if this therapy is reimbursable is not our decision nor is it the Peer Review Committee's decision to make. However, it is the obligation of the Peer Review Committee to determine the medical necessity and appropriateness of the prescribed nutritional program.

OFFICE CLOSURE POLICY – RETIREMENT/INACTIVE

It is advised that a licensee who terminates the active practice but is not selling the practice, run an ad in the local newspaper on two separate occasions notifying former patients of his/her intention to retire and advise them of a time and place to pick up their records. If there is another doctor in the area that is willing to retain the records for a specific period of time, they can also advertise that after a specific date the records will be available at Dr. _____'s office. The licensee must notify the Board in writing of retirement/inactive status and of the location where the patient records will be stored within 30 days of terminating active practice.

OFFICE CLOSURE POLICY – SELLING PRACTICE

It is advised that a licensee who has sold his practice, run an ad in the local newspaper on two separate occasions notifying patients of the sale and if their records will be kept with the business or elsewhere. The patient should also be notified that if they do not want their records to go to another doctor, whether by transfer or sale, they would certainly be able to come to the office and get their records within a time certain. This may also be done with a mailing to patient database. The licensee must also notify the Board in writing of these actions within 30 days along with their new address.

OFFICE CLOSURE POLICY – ASSOCIATE LEAVING

It is advised that the licensee who is leaving a multi-doctor practice run an ad in the local newspaper on two separate occasions or send a mailing to patient database notifying patients that they will be leaving the clinic as of specific date. The notice/letter should also indicate that the patient files will remain with the clinic if that is the case. If not, the patients need to be notified where their files will be. The patient should also be notified that if they do not want their records to go to another doctor, they would certainly be able to come to the office and get their records within a time certain. The licensee must also notify the Board in writing of these actions within 30 days along with their new address.

PAP SMEARS/PELVIC EXAM

It is within the chiropractic scope of practice to perform pap smears as long as the documentation supports the necessity of the procedure and that the findings are well documented.

PASSIVE MODALITIES

It is a standard procedure in chiropractic care within the state of South Dakota that passive modalities such as ultrasound, electrical stimulation, and massage are utilized as well as active therapies which include kinetic activity, therapeutic exercise and neuromuscular education. This is well within the educational standards and the chiropractic scope of practice within the state of South Dakota.

PEER REVIEW – ASSISTANT CHAIRMAN

The Board of Examiners has adopted a policy that an assistant chairman serve on the peer review committee as well as the chairman. The assistant chairman would be privy to all reports and would take over the peer review chairman position when the current chairman is replaced.

PEER REVIEW – RE-REVIEW FEE

Because of the time and paper-work involved to process a peer review re-review, the Board of Examiners will charge a fee to the party requesting a re-review of a case when additional documentation is supplied to support their position after the report is issued. The cost of the re-review will be equivalent to the cost of the initial review itself as indicated in ARSD 20:41:14:08.

PHYSIOTHERAPY

The South Dakota Board of Chiropractic Examiners has established that chiropractors in South Dakota can utilize procedures taught as part of their curriculum at schools approved by the Council on Chiropractic Education. Physiotherapy is taught in all of the chiropractic colleges. In South Dakota, in order for chiropractors to utilize physiotherapy in their offices, they currently must have completed the Physiotherapy section of the National Board of Chiropractic Examination. It is also the opinion of the Board that there is a distinct difference between “physical therapy” as prescribed by a primary health care provider and performed by or supervised by a physical therapist and “physiotherapy” used by chiropractors as adjunctive procedures in their offices.

PRINTED MATERIALS DISTRIBUTION

Chiropractors in the state of South Dakota are not allowed to **distribute printed materials which** offer free examinations, x-rays, or services.

PROCEDURES/INSTRUMENTATION

All procedures, instruments for treatment and of diagnostic evaluation that are utilized by a doctor of Chiropractic shall be classified by the Board of Examiners as 1) Approved, 2) Research or Experimental or 3) Non-approved.

Definitions:

Approved: An approved procedure is taught at a CCE approved Chiropractic College, those that are approved by statute, and those which have been approved by a policy statement from the Board.

Research or Experimental: Any procedure or instrumentation that is not approved, but may have a positive benefit in the diagnosis or treatment of a patient's condition.

Non-approved: Any instrumentation or procedure that does not meet with Board approval. These may be defined by previous declaratory rules or rules and regulations.

Any doctor of Chiropractic who has purchased new instrumentation or have begun utilizing a new procedure that does not meet the definition of Approved Procedures or Instrumentations must notify the Board of the use of such a procedure or instrumentation. The Board of Examiners will then notify the doctor whether this instrumentation or procedure is classified as approved, research and experimental or non-approved.

Approved Procedures or Instrumentation

- Dynatron testing and rehab equipment
- MedX rehab equipment

Research or Experimental in Nature

- Homeopathy
- Cytotoxic testing
- Liv Cell
- Applied Spinal Biomechanical Engineering

Unapproved Procedures

- Colonic irrigation
- Use of prescription pharmaceuticals
- Use of non-disposable acupuncture needles

PROFESSIONAL BOUNDARIES

Beginning with education period 2004-2005, all licensed chiropractors in the state of South Dakota are required to complete two hours of professional boundaries education in order to maintain licensure. This can be obtained on-line if the course has received prior approval from the Board of Examiners. This requirement will also be mandatory during the 2008-2009 education period.

RADIOGRAPHY EXAMINATIONS

A board member does need to be present to administer any chiropractic assistant radiographic examination.

RECORDS RELEASE

It is the opinion of the South Dakota Board of Chiropractic Examiners that it is unethical to withhold pertinent information from another practitioner for any reason. Refer also to SDCL 36-2-16.

REHABILITATION/PHYSIOTHERAPEUTICS

Rehabilitation and physiotherapeutics are within the scope of practice of a licensed chiropractic physician within the state of South Dakota.

RELIGIOUS AFFILIATIONS

Chiropractors in the state of South Dakota are allowed to participate in programs affiliated with their church in which they offer free or discounted services that are advertised and promoted by the church. This can be allowed as long as the work provided is not done in the chiropractors clinic. For example – if a church has established a parish workers program where they advertise that there is a parish chiropractor available in their congregation to treat congregation members who are invalid or cannot afford their services, the chiropractor may treat this patient as long as it is a direct referral from the parish program.

REVIEWING ENTITIES

All entities involved in the coverage of chiropractic care in the state of South Dakota as well as all other case reviewing organizations are required to utilize the Board's guidelines for care and documentation as set forth by the state's codified laws and rules and regulations.

SERVICE AGREEMENTS

It is the Board's opinion that "service agreements" are not permitted in South Dakota pursuant to ARSD 20:41:09:01. "Service Agreements" would create a public perception that the number of visits being paid for in advance creates a perceived "need" for the number of visits set forth. The patient therefore believes he is getting a better "deal" by paying in advance for the perceived number of "necessary" visits. Because of the great potential for not only misleading the public, but also abuse by a chiropractic physician towards inducing unnecessary patient visits, it is the opinion of the board that the use of service agreements is prohibited.

SIDMAR HYDROTHERAPY

It is the position of the South Dakota Board of Chiropractic Examiners that sidmar hydrotherapy is an acceptable form of physiologic therapeutics that can be utilized by doctors of chiropractic in the state of South Dakota. In billing for this therapy, it should be reimbursed at the same rate as other similar non-attended passive modalities such as hot or cold packs and beyond the therapeutic phase of care should not be billed for as part of a multiple therapy billing.

SPINAL VIDEOFLUOROSCOPY

Effective June 14, 2003, the South Dakota Board of Chiropractic Examiners approved the 1991 position statement and protocol along with any ongoing updates for the use of spinal videofluoroscopy excluding the education section on the 1991 document. This position statement can be found at www.accr.org.

SURFACE EMG

On June 14, 2003, the Board approved with reservation a policy statement and criteria for surface emg's. For clarification purposes, the reservation is that the board recognizes that ongoing research continues with respect to these procedures. The policy statement was updated on December 5, 2003 to the following:

A. Policy Statement for the use of Paraspinal Surface EMG / Paraspinal Infrared Thermal Scanning.

The South Dakota Board of Chiropractic Examiners may support the use of Paraspinal Surface EMG and / or Paraspinal Infrared Thermal Scanning by the Doctor of Chiropractic providing the following criteria are adhered to:

1. The doctor, a licensed chiropractor, can demonstrate he/she has received 12 hours of SDBCE approved, additional training in the proper use of Paraspinal Surface EMG and Paraspinal Infrared Thermal Scanning. It is encouraged that staff members administering these tests also receive 12 hours of approved training in the proper use of Paraspinal Surface EMG and Paraspinal Infrared Thermal Scanning.
2. That no claims be made about the test information that is false and misleading.
3. Spinal Surface EMG is still considered to be an experimental device. It may be used as a supplement to reinforce evaluation and diagnosis determined through the normal initial exam.
4. Frequently may be used as a follow up to measure and evaluate progress of patient care at acceptable intervals. It also may be utilized to determine if change in treatment plan is necessary depending of presentation of clinical conditions. Necessity for all uses must be presented in the documentation.
5. The usual and customary fee for this procedure should be .5 RVU for the test and 1 RVU for the written report.
6. This position may be revised when further qualitative research is made available.

TECHNICAL COMPONENTS

The South Dakota Board of Chiropractic Examiners is of the opinion that the usual and customary charge to bill for technical components is the 175% of HCFA.

TEMPORAL MANDIBULAR JOINT DYSFUNCTION

It is the opinion of the South Dakota Board of Chiropractic Examiners that diagnosis and treatment of the temporal mandibular joint is within the scope of practice of a chiropractic physician licensed with the state of South Dakota. Documentation presented must present sound clinical indications for the medical necessity of treatment.

TESTIMONIALS AND PRACTICE PROMOTIONS

The Board of Examiners has no problem with the use of utilizing testimonials and practice promotions as long as the patient has approved that their name can be used as a testimonial and it does not hold the doctor out to be specialized above and beyond his recognized qualifications. The doctor needs to make sure that all advertising pertains to the specific scope of practice of the licensed practitioner in the state of South Dakota.

THERAPEUTIC PROCEDURES PERFORMED BY CHIROPRACTIC ASSISTANTS

It is the responsibility of a chiropractic physician within the state of South Dakota to have qualified assistants in their practice. It is also within the Rules and Regulations to allow chiropractic assistants and exercise physiologists to perform therapeutic procedures under the supervision and prescription of a licensed chiropractic physician within the state of South Dakota. Documentation of these therapeutic procedures is essential to prove the clinical indication for the necessity of care of the procedures billed.

THERAPEUTIC PROCEDURES CODING

The South Dakota Board of Chiropractic Examiners has adopted the Chiro-Code desk book as a reference to deal with questionable therapeutic procedures.

TREATMENT OF ANIMALS

In the Board's recent opinion, it set forth that SDCL §36-12-1 et. seq. (Veterinary Medicine), contains the law providing for the treatment of animals in South Dakota. Pursuant to SDCL §36-12-1, the practice of veterinary medicine includes, for a fee, diagnoses, treatment of whatever nature, performing

manipulation, or conducting treatment for the relief of pain, injury, deformity, wound, fracture, or bodily injury. (Paraphrasing SDCL §36-12-1). SDCL §36-12-2, which sets forth various persons and practices which do not constitute the practice of veterinary medicine, does not have any exception under which chiropractic treatment would fall. Unless a chiropractor is performing a service “free of charge”, or, is performing a service under a veterinarian’s prescription or supervision, the treatment of animals in South Dakota by a chiropractor would be prohibited. SDCL §36-12-27 provides that the unauthorized practice of veterinary medicine constitutes a Class 2 misdemeanor. SDCL §36-12-28 further provides that an injunction may be entered by a circuit court to restrain anyone from practicing veterinary medicine without a license.

TRUST OWNERSHIP OF CHIROPRACTIC CORPORATION SHARES

SDCL 47-11A-5 requires that the shareholders who are duly licensed by the SDBCE must at all times own their shares in their own right. If the shares were transferred to a living trust, the trust, not the shareholders in their own right, would own the shares.

VAX-D TRACTION TABLES

The use of Vax-D traction tables is acceptable in the state of South Dakota as long as the chiropractor using such is certified by VaxD as an operator.